APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/686,385	10/14/2003	Kelly L. Morrison	029714-00742	6324

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EXAMINER
RINES, ROBERT D

ART UNIT	PAPER NUMBER
3623	

NOTIFICATION DATE	DELIVERY MODE
03/29/2012	ELECTRONIC

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Notice of the Office communication was sent electronically on above-indicated "Notification Date" to the following e-mail address(es):

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IPMatters@arentfox.com

		Application No.	Applicant(s)
Office Action Summary		10/686,385	MORRISON ET AL.
		Examiner	Art Unit	
		DAVID RINES	3623	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE <u>3</u> MONTH(S) OR THIRTY (30) DAYS,
WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.
- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed
  after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
  Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any
  earned patent term adjustment. See 37 CFR 1.704(b).

Status

1) ☒ Responsive to communication(s) filed on <u>22 March 2012</u>.

2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.

3) ☐ An election was made by the applicant in response to a restriction requirement set forth during the interview on
_____ ; the restriction requirement and election have been incorporated into this action.

4) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is
closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

5) ☒ Claim(s) <u>24-43</u> is/are pending in the application.

    5a) Of the above claim(s) _____ is/are withdrawn from consideration.

6) ☐ Claim(s) _____ is/are allowed.

7) ☒ Claim(s) <u>24-43</u> is/are rejected.

8) ☐ Claim(s) _____ is/are objected to.

9) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

10) ☐ The specification is objected to by the Examiner.

11) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.

    Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

    Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).

12) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

13) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

    a) ☐ All b) ☐ Some * c) ☐ None of:

      1. ☐ Certified copies of the priority documents have been received.

      2. ☐ Certified copies of the priority documents have been received in Application No. _____ .

      3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage
application from the International Bureau (PCT Rule 17.2(a)).

    * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

1) ☐ Notice of References Cited (PTO-892)

2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)

3) ☐ Information Disclosure Statement(s) (PTO/SB/08)
Paper No(s)/Mail Date _____ .

4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ .

5) ☐ Notice of Informal Patent Application

6) ☐ Other: _____ .

DETAILED ACTION

Notice to Applicant

[1]   This communication is in response to the amendment filed 22 march 2012. Claims 1-23

have been cancelled. Claims 24, 32, and 40 have been amended. Claims 24-43 are pending.

Rejections of claims 24-43 are maintained as set forth in the previous Office Action mailed 20

December 2011, herein incorporated by reference. Applicant's remarks and amendments to

claims 24, 32, and 40 are addressed below.

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all

obviousness rejections set forth in this Office action:

> (a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in
> section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are
> such that the subject matter as a whole would have been obvious at the time the invention was made to a person
> having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negatived by the
> manner in which the invention was made.

[2]   Claims 24-26, 30-36, and 40 are rejected under 35 U.S.C. 103(a) as being unpatentable

over) in view of Reese (United States Patent #6,711,460) in view of Wallace et al. (United States

Patent #6,564,121).

Claims 1-23 have been cancelled.

With respect to (currently amended) claim 24, Reese discloses a method for remote processing

of pharmacy orders, comprising: remotely accessing a plurality of order channel at an order

server, wherein the plurality of order channels are each associated with one of a plurality of

healthcare facilities (Reese; col. 12, lines 33-48 and lines 59-67, col. 13, lines 1-25 *see orders

received from individual pharmacies through pharmacist computer acting as a server, i.e., an

order server. See further orders accessed by the remote pharmacist through the server via a

pharmacist terminal); selecting one of the plurality of order channels for reviewing and

authorizing one or more related orders (Reese; col. 16, lines 30-67 and col. 17, lines 1-22 *see

order forwarded to the remote pharmacist through the pharmacist computer/server and reviewed

and authorized by the remote pharmacist); remotely accessing a pharmacy information system of

a healthcare facility associated with one of the plurality of order channels based at least in part

on the selecting the one of the plurality of order channels (Reese; col. 3, lines 25-34 and lines 40-

60, col. 16, lines 30-67 *see remote pharmacist accesses pharmacy system and further accesses

patient history databases for the individual pharmacies served by the remote pharmacist); and

reviewing and authorizing one or more related order within the pharmacy information system

(Reese; col. 3, lines 25-34 and col. 17, lines 1-22).

Claim 1 has been amended with respect to the previously recited "selecting" step to further

specify "…selecting…based on the remotely accessing of the plurality of order queues…"

As per this element, Reese discloses receiving orders for prescription fulfillment from multiple

order channels at an order server and Reese further discloses accessing individual pharmacy

information systems to authorize and remotely direct the filling of the order. Examiner submits

that this teaching constitutes authorizing, based on the remotely accessing. As noted previously,

Reese fails to specifically disclose queuing orders associated with each individual pharmacy.

However, as evidenced by Wallace et al., it is well known in the medical informatics/pharmacy

art to queue orders associated with individual healthcare facilities for remote fulfillment services

(Wallace et al.; col. 11, lines 41-67, col. 12, lines 1-13, and col. 15, lines 1-15).

It would have been obvious to one of ordinary skill in the art at the time the invention was made

to have modified the order receipt at a central server from multiple channels of Reese by further

including the well-known features of queuing incoming orders as taught by Wallace et al. As

Reese discloses separate order channels from a plurality of served pharmacies in the context of a

computerized system and method for providing remote pharmacist services to a number of

pharmacies and Wallace et al. similarly also discloses queuing of orders in the context of a

computerized system and method for providing remote pharmacist services to a number of

pharmacies, the teachings are reasonably considered to have been derived from analogous

references and applied in the manner disclosed by the respective references. Accordingly, one of

ordinary skill in the art would have been motivated to make the noted combination/modification

as rationalized by using known technique to improve similar devices in the same way.

With respect to claim 25, Reese discloses a method wherein the reviewing and authorizing is

based at least in part on patient information retrieved from the pharmacy information system for

the one or more related orders (Reese; col. 3, lines 25-34 and lines 40-60, col. 16, lines 30-67,

and col. 17 lines 1-22).

With respect to claim 26, Reese discloses a method further comprising dispensing a medication

associated with the one or more related orders from an automated medical dispensing system

interfaces to the pharmacy information system (Reese; col. 10, lines 39-65).

With respect to claim 30, Reese discloses a method wherein the remotely accessing the

pharmacy information system comprises automatically connecting to the pharmacy information

system based at least in part on selecting the one of the plurality of order queues (Reese; col. 3,

lines 25-34 and lines 40-60, col. 16, lines 30-67, and col. 17 lines 1-22).

With respect to claim 31, Reese discloses a method further comprising indicating completion of

reviewing and authorizing one or more related orders to the order server (Reese; col. 16, lines

44-54 and col. 17, lines 1-35 *NOTE: Reese discloses multiple reviews and checks that are

reasonably considered to constitute "reviewing and authorizing" as presently claimed. The

completion of each is communicated to the pharmacist server/computer. See at least (1)

following validation, remote pharmacist authorizes transmission of the order for filling and (2)

once the prescription is in condition to be filled, remote pharmacist directs the automated filling

through the server/pharmacist computer).

Regarding claims 25-26 and 30-31, the conclusions of obviousness and rationale to

modify/combine as discussed with regard to claim 1 above are applicable to claims 25-26 and

30-31 and are herein incorporated by reference.

Claim 32 as presented by amendment, and claims 33-36 and 39 substantially repeat the

limitations of claims 24-26 and 30-31 as directed to an enabling system including a first

computer and a second computer. Claim 36 further includes displaying an order image. With

respect to these elements, Reese discloses transmission and display of an order image (Reese;

col. 15, lines 1-16). Further, Reese discloses an analogous system included at least two

designated computers performing specific function included in the processing of prescription

orders (Reese; col. 5, lines 55-67 and col. 6, lines 1-24). Claims 32-39 otherwise repeat

limitation previously addressed with respect to claims 24-26 and 30-31. Accordingly, claims 32-

36 and 39 are rejected under the applied teachings, conclusions of obviousness, and

rationale/motivation to modify/combine as discussed above with respect to claims 24-26 and 30-

31.

Claim 40 as presented by amendment substantially repeats subject matter addressed above with

respect to claim 24. Claim 40 is distinguished from claim 24 by further specifying that the

remote processing center accesses pharmacy information systems for each healthcare facility

(first and second pharmacy information systems).

With respect to this element, Reese discloses accessing the pharmacy information system for

each served pharmacy based on selection of the inbound order from the respective pharmacy

(Reese; col. 3, lines 25-34 and col. 17, lines 1-22). The remainder of claim 40 otherwise repeats

the subject matter of claim 24 and is accordingly rejected under the applied teachings,

conclusions of obviousness, and rationale/motivation to modify/combine as discussed above with

respect to claims 24-43.

[3]   Claims 27-29, 37-38 and 41-43 are rejected under 35 U.S.C. 103(a) as being unpatentable

over) in view of Reese in view of Wallace et al., and further in view of Goodall et al. (United

States Patent Application Publication #2003/0149599).

With respect to claims 27-29, Reese discloses accessing the pharmacy information system for

each served pharmacy based on selection of the inbound order from the respective pharmacy

(Reese; col. 3, lines 25-34 and col. 17, lines 1-22). Reese further discloses that the remote

pharmacist accesses rules that apply to the filling of prescriptions with respect to the particular

pharmacy (Reese; col. 3, lines 45-60). While Reese discloses pharmacy associated rules, Reese

fails to specifically indicate that the rules are a service level commitment or agreement with the

customer/pharmacy.

However, as evidenced by Goodall et al., it is well known in the art to process prescription

fulfillment in accordance with a service commitment to the customer (Goodall et al.; paragraph

[0016]).

 With respect to claim 27, Goodall et al. disclose a method wherein reviewing and authorizing

the one or more related orders comprises processing the one or more related orders according to

one or more service level commitments specified by the healthcare facility associated with the

one of the plurality of order queues (Goodall et al.; paragraphs [0016] [0028] [0029] *see order

fulfillment in accordance with priority orders and promised/calculated delivery time, i.e., a

"service level commitment").

With respect to claim 28, Goodall et al. disclose a method further comprising receiving the one

or more service level commitments from the order server based at least in part on selecting the

one of the plurality of order queues (Goodall et al.; paragraphs [0016] [0036] [0080]).

With respect to claim 29, Goodall et al. disclose a method wherein reviewing and authorizing the

one or more related orders comprises processing the one or more related orders according to one

or more policies specifies by the healthcare facility associated with the one of the plurality of

order queues (Goodall et al.; paragraphs [0016] [0036] [0080]).

Regarding claims 27-29, the conclusions of obviousness and rationale to modify/combine as

discussed with regard to claim 1 above are applicable to claims 27-29 and are herein

incorporated by reference.

Regarding the combination that further includes Goodall et al., it would have been obvious to

one of ordinary skill in the art at the time the invention was made to have modified the pharmacy

specific rules check of Reese by further including processing orders accordance with service

commitments made to the customer as taught by Goodall et al. As Reese discloses the use of

rules checks in the context of remote prescription fulfillment and Goodall et al. similarly

discloses the utility of processing prescriptions in accordance with service commitments, the

teachings are reasonably considered to have been derived from analogous references and applied

in the manner disclosed by the respective references. Accordingly, one of ordinary skill in the art

would have been motivated to make the noted combination/modification as rationalized by

combining prior art elements accordingly to known methods to yield the predictable results of

delivering prescription orders in compliance with previously agreed to terms and conditions.

Claims 37-38 substantially repeat the limitations of claims 27-29 as directed to an enabling

system including a first computer and a second computer. With respect to these elements, Reese

discloses transmission and display of an order image (Reese; col. 15, lines 1-16). Further, Reese

discloses an analogous system included at least two designated computers performing specific

function included in the processing of prescription orders (Reese; col. 5, lines 55-67 and col. 6,

lines 1-24). Claims 37-38 otherwise repeat limitation previously addressed with respect to claims

27-29. Accordingly, claims 37-38 are rejected under the applied teachings, conclusions of

obviousness, and rationale/motivation to modify/combine as discussed above with respect to

claims 27-29.

Claims 41-43 recite substantially similar subject matter to claims 27-29 addressed above. Claims 41-43 are distinguished from claims 27-29 by further specifying that the remote processing center accesses pharmacy information systems for each healthcare facility. Claims 41-43 are further distinguished from claim 27-29 by further requiring that the service level agreements and associated with individual healthcare facilities and that the service agreements are accessed based on the order queue accessed by the remote processing center.

With respect to these elements, Reese discloses accessing the pharmacy information system for each served pharmacy based on selection of the inbound order from the respective pharmacy (Reese; col. 3, lines 25-34 and col. 17, lines 1-22). Reese further discloses that the remote pharmacist accesses rules that apply to the filling of prescriptions with respect to the particular pharmacy (Reese; col. 3, lines 45-60). While Reese discloses pharmacy associated rules, Reese fails to specifically indicate that the rules are a service level commitment or agreement with the customer/pharmacy. However, as evidenced by Goodall et al. as applied above, it is well known in the art to process prescription fulfillment in accordance with a service commitment to the customer (Goodall et al.; paragraph [0016]). The remainders of claims 41-43 otherwise repeat the subject matter of claims 27-29 and are accordingly rejected under the applied teachings, conclusions of obviousness, and rationale/motivation to modify/combine as discussed above with respect to claims 27-29.

Response to Remarks/Amendment

[4]   Applicant's remarks filed 22 March 2012 have been fully considered but they are not

persuasive. The remarks will be addressed below in the order in which they appear in the noted

response.

In response to rejection(s) of claim(s) 24-43 under 35 U.S.C. 103 as being unpatentable in

consideration of Reese in view of Wallace et al. as set forth in the previous Office Action mailed

20 December 2011, Applicant remarks:

"...Reese relates to a system for a single remote professional to provide pharmaceutical care and

oversight of multiple pharmacies...Reese, however, fails to teach at least remotely accessing a plurality of

order queues at an order server, wherein the plurality of order queues are each associated with one of a

plurality of healthcare facilities, selecting one of the plurality of order queues for reviewing and

authorizing one or more related orders based on the remotely accessing the plurality of order queues..."

Applicant further remarks:

"...Wallace relates to a system for dispensing packages and non-packages medical products...Wallace,

however, is silent regarding at least the aspects of claim 24 highlighted above [with respect to Reese] an

thus fails to cure the deficiencies of Reese..."

Applicant further remarks:

"...Wallace fails to teach a plurality of order queues...Wallace's queues merely relate to inventory at a RCD or items dispensed from the RCD..."

In response, Examiner respectfully disagrees and initially directs Applicant's attention to the applied teachings of Reese at col. 12, lines 33-48 and lines 59-67, col. 13, lines 1-25. In the noted passages, Reese disclose receiving orders from individual pharmacies through a pharmacist computer acting as a server, i.e., an order server. Reese further discloses the remote pharmacist accessing and selecting one or more orders by selecting the orders from the pharmacy systems. Examiner respectfully submits that these teachings constitute accessing a plurality of orders from a plurality of pharmacy systems, i.e., associated with a healthcare facility.

In further response, Examiner initially notes that one cannot show nonobviousness by attacking references individually where the rejections are based on combinations of references. See *In re Keller*, 642 F.2d 413, 208 USPQ 871 (CCPA 1981); *In re Merck & Co.,* 800 F.2d 1091, 231 USPQ 375 (Fed. Cir. 1986).

Regarding the applied teachings of Wallace, Examiner initially agrees with Applicant insofar as Wallace is applied to evidence the well-known practice of queuing pharmacy orders. With respect to Wallace's queues, Examiner respectfully disagrees and directs Applicant's attention to the applied teachings of Wallace col. 11, lines 41-67, col. 12, lines 1-13 in further consideration of the supportive teachings of Wallace at col. 14, lines 48-67 and col. 15, lines 1-25. In the noted teachings,

Wallace discloses a host pharmacy controller that includes a server (Wallace; col. 12, lines 13-

22, col. 14, lines 48-67 and col. 15, lines 1-25). Wallace further discloses multiple remote

dispensing units with associated workstations dispersed over a wide geographic area (i.e.,

multiple remote processing centers) each having a dispense queue (Wallace; col. 12, lines 14-29

and col. 14, lines 51-64). Examiner considers the host system/server to constitute an "order

server" and the remote dispensing system/workstations to be "remote processing centers" as

presented in the claimed invention. Accordingly, Examiner respectfully disagrees with

Applicant's contention that Wallace fails to disclose an order server and a plurality of order

queues. In contrast, Wallace indicates a host system/server (*see pharmacy controller

system/server) and multiple remote dispensers which "process" orders specifically designated for

the remote station (*see workstation/RCD's). As the host system services multiple remote

dispensers, there exists a plurality of queues.

Conclusion

[5]   THIS ACTION IS MADE FINAL. Applicant is reminded of the extension of time

policy as set forth in 37 CFR 1.136(a).

    A shortened statutory period for reply to this final action is set to expire THREE

MONTHS from the mailing date of this action. In the event a first reply is filed within TWO

MONTHS of the mailing date of this final action and the advisory action is not mailed until after

the end of the THREE-MONTH shortened statutory period, then the shortened statutory period

will expire on the date the advisory action is mailed, and any extension fee pursuant to 37

CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to DAVID RINES whose telephone number is (571)272-5585. The examiner can normally be reached on 8:30am - 5:00pm Mon-Fri.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Beth Boswell can be reached on 571-272-6737. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see http://pair-direct.uspto.gov. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/R. David Rines/
Primary Examiner, Art Unit 3623